

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:	
PARENT ON BEHALF OF STUDENT,	OAH CASE NO. 2012120545
v.	
CAPISTRANO UNIFIED SCHOOL DISTRICT,	
CAPISTRANO UNIFIED SCHOOL DISTRICT,	OAH CASE NO. 2012120173
v.	
PARENT ON BEHALF OF STUDENT.	ORDER GRANTING STUDENT’S MOTION TO CONSOLIDATE AND GRANTING MOTION TO CONTINUE

On December 5, 2012, the Capistrano Unified School District (District) filed a request for due process hearing (complaint) in OAH case number 2012120545 (First Case), naming Student.

On December 13, 2012, Student filed a complaint in OAH case number 2012120545 (Second Case), naming District.

On December 13, 2012, Student filed a motion to consolidate the First Case with the Second Case and to continue the due process hearing date set in the First Case. District did not file an opposition to Student’s motions.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the First Case and Second Case involve common questions of law and fact, specifically, both cases seek a determination of whether Student's individualized education program (IEP) of September 14, 2012, as amended by a prior written notice letter on October 3, 2012, offered Student a free appropriate public education (FAPE).¹ Consolidation furthers the interests of judicial economy because the respective cases will involve the same witnesses, documents and questions of law, and will avoid the repetitive presentation of common evidence. Accordingly, consolidation is granted.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).) As discussed above, consolidation promotes judicial economy, and good cause exists to continue the mediation, prehearing conference (PHC) and hearing dates in both of these consolidated cases in order that they be heard at the same time. Therefore, the continuance is granted.

ORDER

1. Student's motion to consolidate is granted. The primary case shall be OAH case number 2012120545 (Second Case).
2. All dates previously set in OAH case number 2012120173 (First Case) and OAH Case number 2012120545 (Second Case) are vacated and continued for good cause on Student's motion.
3. OAH will issue a scheduling order with new dates for the mediation, PHC and due process hearing in these consolidated matters.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH case number 2012120545 (Second Case).

Dated: December 21, 2012

/s/

ALEXA J. HOHENSEE
Administrative Law Judge
Office of Administrative Hearings

¹ District's complaint also references IEP team meetings on May 1, May 24, June 11 and June 18, 2012, and Student's complaint references prior school years. However, the issues in both pleadings are focused primarily on the 2012-2013 school year.